IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

NATHAN SMITH	§	
	§	
vs.	§	Civil Action No. 4:07-00784
	§	
THE ABANDONED VESSEL, in rem	§	

INTERVENOR'S RESPONSE **NOT OPPOSING** PLAINTIFF'S PROPOSED DEPOSITION AND **OPPOSING** ANY CONTINUANCE

TO THE HONORABLE JUDGE OF THE COURT:

Intervenor Morgan Dunn O'Connor, as Executor of the Estate Of Marie Sorenson, deceased, ("Intervenor") files this response to Plaintiff's Motion for Leave to take the deposition of a newly discovered witness or for a continuance and for expedited consideration (DKT# 067 & 068) and would show:

1. Due to a misunderstanding by telephone, Plaintiff apparently is under the impression that Intervenor is opposed to taking the deposition of his newly discovered witness, Garrett Engelking, on December 19, 2008. Intervenor did not claim any opposition to the deposition and is not opposed to the deposition.

2. Intervenor reserves the right to oppose the admission of Mr. Engelking's testimony based on the late designation and other objections based on what he may say at his deposition.

3. Intervenor is opposed to any continuance of this matter from its December 29, 2008 trial setting. This matter has been pending for nearly two

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years, and needs to be resolved. There is no reasonable basis for any continuance at this time.

WHEREFORE, Intervenor requests the Court grant Plaintiff's Motion for Leave to take Mr. Engelking's deposition as not being opposed, deny Plaintiff's request for a continuance, and grant Intervenor such other and further relief as to which she may be justly entitled.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that the foregoing was served on all parties in accordance with the Federal Rules of Civil Procedure on December 18, 2008.

/s/ Terry M. Carroll, Jr.
Terry M. Carroll, Jr.